

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

RONALD J. HERTRICH,

Plaintiff,  
v.

05cv1607  
**ELECTRONICALLY FILED**

JOHN E. POTTER,

Defendant.

**Order of Court**

**AND NOW, this 14<sup>th</sup> day of February, 2006**, after careful review of defendant John E. Potter's motion to dismiss or for partial summary judgment (Documents No. 2, 3), and in light of plaintiff's failure to file the response that was due by February 10, 2006, the Court agrees with defendant that plaintiff Ronald J. Hertrich has failed to exhaust his administrative remedies with regard to his retaliation claim at Count II of the complaint. Accordingly,

**IT IS HEREBY ORDERED** that defendant's motion to dismiss or in the alternative, for partial summary judgment (Document No. 2, 3) is **GRANTED**, and Count II of the complaint is **DISMISSED** with prejudice.

s/ Arthur J. Schwab  
Arthur J. Schwab  
United States District Judge

cc: All counsel of record as listed below

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